



# City of Carmel

## Carmel Advisory Board of Zoning Appeals

### Regular Meeting

Monday, February 23, 2004

The regularly scheduled meeting was held at 7:00 PM in the Council Chambers of Carmel City Hall on February 23, 2004. Those members in attendance: Leo Dierckman, James Hawkins, Earlene Plavchak, and Charles Weinkauff, thereby establishing a quorum. Department of Community Services Staff in attendance: Director Mike Hollibaugh and Planning Administrators Jon Dobosiewicz and Angie Butler. John Molitor, Legal Counsel, was also present.

Mr. Dierckman moved to approve the minutes from the January 26, 2004 meeting. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0.**

Mr. Dobosiewicz gave the Department Report. Item 6h, Carmel Science & Technology Park, Lots 11B & 11C has been tabled, because the item is still before the Plan Commission.

Mr. Molitor gave the Legal Report. He has been monitoring activity at the Indiana General Assembly and there are no bills pending that would affect the functions of the Board of Zoning Appeals. He would like some time at the end of the agenda to discuss a previous Board decision regarding the Alzheimer's residence.

Madeleine Torres arrived at this point.

#### H. Public Hearing:

**1-2h. ~~Lady Hamilton Estates, Lot 6—Use Variance~~ (WITHDRAWN)  
~~Broad Horizons Montessori School~~**

~~The applicant seeks approval to operate a private school in the R-1 Zone.~~

~~UV-101-03 #03100007 §7.01 permitted uses~~

~~The applicant also seeks the following development standards variance:~~

~~V-134-03 #03120028 §27.03.02 parking lot curbing~~

~~The site is located at 1325 E 111th Street. The site is zoned R-1/Residence.~~

~~Filed by Susan & Kurt Pieples of Broad Horizons Montessori School, LLC.~~

**3-5h. Tom Wood Subaru- Signage**

The applicant seeks the following development standards variances:

V-103-03 #03100019 § 25.7.02-8(b) 5 identification signs

V-104-03 #03100020 §25.7.02-8(b) 5 identification signs facing south

~~V-105-03 #03100021 §25.7.02-8(b) 3 identification signs facing east~~

(WITHDRAWN)

~~V-106-03 #03100022 §25.7.02-8(b) 1 identification sign facing west~~

(WITHDRAWN)

V-107-03 #03100023 §26.4 relief from buffer yard requirement

The site is located at 3230 E 96th Street. The site is zoned B/3-Business.  
Filed by Lawrence Lawhead of Barnes & Thornburg for Tom Wood Subaru.

Present for the Petitioner: Larry Lawhead of Barnes & Thornburg, 11 S. Meridian Street, Indianapolis.

Mr. Wood has been trying to separate the Volkswagen, Nissan, and Subaru dealerships. The property is allowed one sign facing south. The logo and name of the dealership are divided, making it three signs facing south. The fourth sign is the rock based ground sign facing east and west. The fifth sign was the Service sign, which was approved in the ADLS and does not require a variance. The proposed square footage of the three signs facing south is 60.9 square feet and the maximum permitted square footage is 60 square feet. The site is 100 wide and 500 feet long, creating some development issues. The adjoining property has an eight-foot block wall along the west, north and a portion of the east sides. The remainder of the east side is asphalt paving and they are to ask for a variance to continue. The variance is to eliminate the perimeter buffer requirement. The petitioner has agreed to provide a donation to the City for a park or wherever the City would like the landscaping.

Members of the public were invited to speak in favor or opposition to the petitions; no one appeared.

Mr. Dobosiewicz gave the Department Report. The Department recommends favorable consideration of the landscaping request along the east property line with the commitment to offsite plantings of the total number of plant materials, per approval of the Urban Forester. Because the three signs are broken up by architecture on the building, they are not measured as one sign. The Department is in opposition to the cluster of three signs as well as a ground sign. The Department would be in support of just the cluster of three signs as one sign on the property.

Discussion followed that the variance is really for four signs, not five. Also, the cluster of signs on the building counts as three signs, even though the information could be in one sign.

Public Hearing on V-103-03 was closed.

Discussion followed regarding the size and placement of the four signs.

Mr. Dierckman moved to approve **V-103-03 Tom Wood Subaru- Signage** for four (4) identification signs. The motion was seconded by Mrs. Torres and **APPROVED 4-1**, with Mr. Hawkins casting the opposing vote.

Mr. Dierckman moved to approve **V-104-03 Tom Wood Subaru- Signage** for four (4) identification signs facing south. The motion was seconded by Mrs. Plavchak.

The Public Hearing on V-104-03 was closed

The variance was **APPROVED 4-1**, with Mr. Hawkins casting the opposing vote.

Mr. Dierckman moved to approve **V-107-03 Tom Wood Subaru- Signage** subject to the following condition that the applicant commit to offsite planting of the total number of plant materials required along the east property line, per approval of the Urban Forester. The motion was seconded by Mrs. Torres.

The Public Hearing on V-107-03 was closed.

The variance was **APPROVED 5-0**.

**6h. Carmel Science & Technology Park, Lots 11B & 11C: (TABLED)  
Congressional Flex Space (V-132-03/ #03120025)**

The applicant seeks the following development standards variance:

**V-132-03** #03120025 §20D.04.06 front landscaped yard

The site is located at southwest 122<sup>nd</sup> Street & Congressional Blvd.

The site is zoned M-3/Manufacturing. Filed by Mila Slepaya of Mid-States Engineering.

**7-8h. Bridlebourne Subdivision, Sec 3, Lot 60: Adams Residence**

The applicant seeks the following development standards variances:

Docket No. **04010010 V** §25.1.1.B.3.a.i(a) garage setback

Docket No. **04010011 V** §25.1.1.B.1 garage height

The site is located at 10994 Sedgemoor Circle. The site is zoned S-1/Residence-Very Low Intensity. Filed by Mike Mulryan, Sr. of the Schneider Corp.

Present for the Petitioner: Mike Mulryan of Schneider Corporation, 8901 Otis, Indianapolis.

The setback requested is for eight (8) feet back from the front of the existing house instead of the required 25 feet. The height request is for 20.5 feet instead of the required 18 feet. The requested height will be 26 feet from the ground to the peak. This will line up with and architecturally match the existing attached garage.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mr. Dobosiewicz gave the Department Report. The Department is recommending favorable consideration for both requests and asks that they be acted on as a package, because both are relative to the same situation.

Mr. Dierckman moved to approve **04010010 V** and **04010011 V, Bridlebourne Subdivision, Sec 3, Lot 60: Adams Residence**. The motion was seconded by Mrs. Torres.

The Public Hearing was closed.

The variances were **APPROVED 5-0**.

**I. Old Business**

**1i. Taylor Trace, Lot 12 (UV-129-03/ #03120022)  
Furry Family Veterinary Clinic**

The applicant seeks approval for a use variance:

**UV-129-03** #03120022 §25.18.02 Veterinary clinic or 7.01 permitted uses

The site is located at 3309 E. 146<sup>th</sup> Street. The site is zoned R-1/Residence.

Filed by Dr. Mary Wade

The Public Hearing was continued from the point of the last meeting. The Public Hearing would be opened for comments only from the public relative to the written commitments submitted this evening.

Present for the Petitioner: Dr. Mary Wade, 3309 E. 146<sup>th</sup> Street.

Dr. Wade had met with a lawyer, Ken Clark, who had met with Mr. Dobosiewicz. She read her nine commitments regarding (1) the Covenants of Taylor Trace for Lot #12, (2) property maintained in a residential appearance, (3) no outside kennels, (4) 12 square feet sign location, (5) three non-resident employees, (6) veterinary practice open by appointment only, (7) refuse containers will be stored in the detached garage, (8) medical waste shall be stored in appropriate containers and disposed of by professionals, and (9) landscaping shall be in compliance. "These commitments shall run with the land, be binding on the owner and subsequent owners of the real estate and other persons acquiring an interest therein. These commitments may be modified or terminated by a decision of the Carmel Board of Zoning Appeals made at a public hearing after proper notice has been given."

Mr. Dobosiewicz stated that the developer/owner can amend the Covenants of Taylor Trace in the future and the Board cannot control that. The Department would like to see a limitation on the percentage of the home that can be used for a veterinary clinic, the number of outside employees, and also that the site be occupied as a single-family residence by an employee of the clinic.

Discussion followed regarding Dr. Wade's commitments and committing to not changing the Taylor Trace Covenants.

Dr. Wade understood the concerns, but was not comfortable with being overly committed and not able to make changes where they might be needed.

**Public in Opposition:**

Jeanne Beebe, 3405 E 146<sup>th</sup> Street. Her main concern is the covenants that were made by the developer and his partner. There are five homes under construction, but no people living in the subdivision. The people who buy homes in this subdivision are going to be bound by these covenants and they have been changed to accommodate Lot 12. She would like to keep this a residential area.

Discussion continued regarding the commitments, number of employees, and hours of operation.

Mr. Weinkauff gave a list of street cut-offs/median cuts; turn lanes, and businesses in this 146<sup>th</sup> Street area. He stated it would be easier to enter and leave this residence than some of the subdivisions and private residences in the area.

Mr. Dierckman expressed significant concerns about the appropriateness of the residence going

commercial when it is buffered on both sides by residential. He felt the clinic might grow into something more significant than what the Board desires.

Mr. Dobosiewicz stated that the Use Variance runs with the property, not the current owner. The County Highway Department may close the median break in front of this residence, if traffic becomes an issue.

Discussion was held on enforcing the commitments.

Dr. Wade was not in favor of tabling her petition or changing her commitments.

Mr. Dierckman moved to approve **UV-129-03, Taylor Trace, Lot 12**. The motion was seconded by Mr. Hawkins.

The Public Hearing was closed.

The variance was **DENIED 2-3**, with Mrs. Plavchak, Mrs. Torres, and Mr. Hawkins casting the opposing votes.

At the conclusion of the meeting, Mr. Molitor reported that the Department has been notified by the attorney of the owners of the property in Briar Creek for which the Use Variance was denied for the Alzheimer's home. The owner is seeking to obtain a certification from the State of Indiana to operate a residential facility for the mentally ill. Under State law, that is an automatically permitted use. The restriction is that two facilities cannot be operating within a three thousand feet radius. That would preclude the one that was before this Board and the other one which is a little bit north of there on Lakeshore Drive from both operating. The owner's intention is to close the one in Briar Creek later this spring, but to keep the other one in operation if they can obtain the certification from the State of Indiana.

Discussion followed regarding closing the facility in Briar Creek, the State certification process and Alzheimer's being a mental illness.

Mr. Dierckman moved to have the Department of Community Services inquire in writing, specific to this particular application, whether or not the State defines any form of dementia as a mental illness. Mrs. Plavchak seconded the motion and it was **APPROVED 5-0**.

Mr. Molitor also mentioned that there are a few technical changes that need to be made to the Board's Rules of Procedure. He will bring the changes after the Martin Marietta case in which one of the Board's amendments was an issue.

## **J. New Business**

There was no New Business.

**K.    Adjourn**

Mrs. Plavchak moved to adjourn. The motion was seconded by Mr. Dierckman and **APPROVED 5-0.**

The meeting was adjourned at 9:00 PM

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Charles Weinkauf, President

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Connie Tingley, Secretary